CITY OF GAITHERSBURG
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MINUTES OF A MEETING OF THE BOARD OF APPEALS
THURSDAY APRIL 12, 2007

Chairperson Harvey Kaye called the meeting to order at 7:30 p.m. Members present: Richard Knoebel, Vice Chairperson, and Board Members Gary Trojak, Carol Rieg, and Alternate David Friend. Staff Present: Caroline Seiden, Planner, William Chen, Attorney to the Board of Appeals, Cathy Borten, City Attorney, Greg Ossont, Director of Planning and Code Administration, and Ashley Geisbert, Recording Secretary.

I. APPROVAL OF MINUTES

Motion was made by Board Member Knoebel, seconded by Board Member Rieg, that the minutes of the March 8, 2007, Board of Appeals meeting be approved.

VOTE: 3:0:1 (Trojak abstained)

II. ADMINISTRATIVE REVIEW

A-528 RST Development - West Deer Park Apartments.

The application requests an Administrative Review of a determination by City Staff to decline to issue a Rental Housing License for the reoccupation of existing dwellings at West Deer Park Apartments, 70 West Deer Park Road, Parcel A, Gaithersburg, Maryland.

Planner Caroline Seiden introduced Administrative Review A-528 and A-529 simultaneously into the record. The two Administrative Reviews were advertised in the March 28, 2007 issue of the *Gaithersburg Gazette*. There were twenty-one (21) exhibits in the A-528 record file and thirty-two (32) exhibits in the A-529 record file.

Motion was made by Alternate Board Member Friend, seconded by Board Member Knoebel, that Case A-528, the petition of RST Development, LLC requesting an Administrative Review of a City action refusing to issue a Rental Housing License be, and it is, DISMISSED, with prejudice because it is premature.

VOTE: 5:0

III. ADMINISTRATIVE REVIEW

A-529 RST Development - West Deer Park Apartments

The application requests an Administrative Review of a determination by City Staff requiring site plan amendment approval prior to the reoccupation of existing dwellings and refusing to issue a renewal of a Rental Housing License for West Deer Park Apartments, 70 West Deer Park Rd, Parcel A, Gaithersburg, Maryland.

Chairperson Kaye began with preliminary questioning regarding the status of the approved 2006 site plan. Mr. Ossont indicated that the site plan was approved and had received an extension from the Planning Commission prior to the expiration date; the plan is therefore still valid. Ms. Cathy Borten, City Attorney wanted to ensure that it was properly understood that the 2006 approved site plan was for a townhouse project requested at the same location, not the apartment complex.

Chairperson Kaye questioned whether Sections 24-172 and 24-173 from the City Code were applicable to the current Administrative Review hearing. Ms. Borten stated that Section 24-173 is applicable to the townhouse site plan, but was unsure if it had any bearing on the current Administrative Review. Mr. Ossont stated that it was the staff's belief that both sections 24-172 and 24-173 were in fact relevant to the current case.

Mr. Bob Harris, counsel for RST further explained that there are in fact two (2) site plans for the property at the current time. The first original site plan from 1970 for multifamily apartments, and the second site plan approved in 2006 that was created for the intended 130 townhouse units; both are understood to be valid site plans. The property was used after January 2006 under the first site plan, and continued to be used despite Sections 24-172 and 24-173. The fore mentioned sections did not prevent the property owner from using the original site plan from 1970. This is in fact what the property owner has been attempting to do, is to resume use under that original site plan.

Ms. Borten did not disagree with Mr. Harris's statements, but noted that the City's position on the matter is that changes need to be made to conform to the current ordinance by acquiring a new site plan or to amend the 1970 multifamily use site plan.

Chairperson Kaye requested final clarification of the site plan discussion. It was currently understood that the property has at the present time two (2) approved site plans, one in which the property owners may not proceed (1970) and one in which they can proceed (2006). Ms. Borten confirmed, they have a site plan approved, implemented and operating from 1970. The use was discontinued for more than ninety (90) days. The site plan is still valid because it's multifamily use, but because of the break in use, in order to reoccupy as an apartment complex, they need to amend the site plan to bring it into conformance, or submit a new site plan.

Board Member Trojak questioned at what point does one plan become invalid. Ms. Borten and Mr. Ossont jointly replied that the recording of the record plats, the demolition of the existing buildings, and footings placed into the ground for the townhouse project would implement the 2006 site plan and invalidate the 1970 plan. Mr. Harris stated that the 2006 site plan required new plats. The plats

were never recorded and therefore never taken to the final stage of implementation. The former site plan therefore remains valid and capable of implementation.

Chairperson Kaye noted that the main question in regard to the current appeal is whether a nonconforming use is lost under Sections 24-17, 24-18 or 24-19 due to the lack of use for more than ninety (90) days. If so, then the question remains whether the present site conforms or not. Another concern is whether or not parking is taken into consideration when looking at a conforming use and if 24-168 takes the case away from any requirement for a site plan amendment.

Chairperson Kaye requested not to hear any opening statements or arguments due to time restraints and that the Board was familiar with both pre-hearing statements.

Chairperson Kaye swore in witness Mr. Michael Scott Copeland, applicant and Principal of RST Development. Mr. Copeland testified that West Deer Park (WDP) – RST LLC is the single purpose entity controlled by RST for the ownership of the West Deer Park apartments. The property was constructed in the early 1970's and was acquired by WDP in August of 2005. The apartment complex contained at the time, and currently, 198 apartment units. The property was, and continues to be in the R-20 zone which does permit multifamily usage. Mr. Copeland noted that at the time the property was acquired in 2005 the 375 parking spaces provided for the apartment complex did conform to the parking regulations.

Mr. Copeland explained that in 2005 the agency had discussed with the City, a plan to demolish the existing apartments and create a luxury 130 unit townhouse development in its place. Site plan approval was given to this new 130 townhouse project in January of 2006. There were multiple steps taken to relocate residents of the apartment complex to alternate living quarters throughout the city. Mr. Copeland stated that as much as $2.5 million dollars was spent on plans for the project, and as much as $900,000 in relocating the tenants of the apartment complex. Mr. Copeland also confirmed that there were no record plats submitted or recorded for the townhouse project.

In the summer of 2006, when the townhouse market started to decline, RST began internally discussing the possibility of not following through with the townhouse project and simply renovating the existing apartment units. Mr. Copeland stated that his initial conversation with the City regarding the discontinuance of the townhouse project was in late May or early June 2006 by email with Mr. Ossont. Mr. Ossont had emailed Mr. Copeland inquiring the status of the record plat submission for the 130 unit townhouse project. Mr. Copeland stated that when he questioned Mr. Ossont as to what would happen if the townhouse project fell through, Mr. Ossont was not happy.

Ms. Borten made a continuing objection for the record. She stated that all of the information being given by the applicant had already been heard at previous hearings. It was stated that the current appeal is in relation to the decision made in the February 22nd letter from Mr. Ossont and that anything that was said by the City before that date is not relevant to the current appeal.

Mr. Bogorad responded with an explanation for the line of questioning. He stated that because the City is asking the Board to give great deference to their interpretation of the code, it is necessary to show that the City had an agenda. The petitioner's position is that it is a legal interpretation, and that no deference should be given. If in fact the board chooses to do so it should be noted that there was an agenda on the decision makers' part as soon as they were aware about the possibility of returning

to the apartment complex plans rather than that of the townhouses.

Chairperson Kaye announced that it was his understanding that when agencies interpret and work with statutes, their decisions and use of the statutes over a period of years does take on somewhat the effect of the law.

Mr. Copeland continued to describe the email conversation with Mr. Ossont. Mr. Copeland stated that Mr. Ossont's response seemed to reflect the view that if the townhouse project was abandoned, that the City would make RST's life very difficult and that it was not a path suggested to be taken.

Mr. Copeland was aware that the City had contributed towards relocation costs, but was unaware of the amount until viewing the current pre-hearing statements. These statements stated that $60,000 was extended by the City towards the cost of relocating the tenants of the apartment complex. Mr. Copeland stated that he did not feel obligated to reimburse the City for their costs, but is willing to do so. Mr. Copeland offered to repay the City once Mr. Felton expressed concerns at the September 27, 2006 meeting, regarding the City's loss of funds toward the project. Mr. Copeland understood there to be an agreement among the City officials and RST that because there was no record plat submitted, there was no obligation to go further with the project, and therefore the ability to return to the re-tenanting of the apartment complex.

Mr. Copeland responded to questions from counsel regarding the property's rental housing license application. The application was submitted on November 6, 2006. There was no license issued, temporary or otherwise. There was no inspection scheduled for the City to inspect the property. There was also no notification received from the City in writing or otherwise stating that there were any violations on the property, and if so, a time frame to fix them. The first correspondence regarding the rental housing license that the petitioners received was the February 22, 2007 letter from Mr. Greg Ossont.

Mr. Copeland explained that the property is currently vacant, due to the current hold on the rental housing license. The property has been boarded up per City's request since the summer of 2006, in response to vandalism and for safety purposes. Utility service has been restored to the property as of January 2007. Mr. Copeland discussed the economic effect that the delay in construction has had on RST. The cost to hold the vacant apartment complex is approximately $2 million a year, and Mr. Copeland felt that had it not been for the City's response, the property would be circulating income at this time.

Chairperson Kaye was advised by the Attorney for the Board of Appeals, Mr. Chen, that what Chairperson Kaye previously stated regarding the City's interpretation of the statutes was not 100% accurate. Mr. Chen wished to clarify.

Mr. Chen stated that long standing interpretation of the code will be given deference, and strongly considered, but if an agency's interpretation of an ordinance or statute that it administers is not consistent with what the ordinance or statute provides, then the agency's interpretation can not be followed. An agency's interpretation can not control over what an ordinance or statute would either permit or require.

Board Member Friend inquired if there was any other written request to the City prior to the

November 6, 2006 rental application, to return to the 1970 site plan and reuse the property as a multifamily use. Mr. Copeland stated that there were various meetings with the City prior to the rental housing application, but nothing in writing. RST was ready to start work on September 28, 2006, and it was their goal to begin with renovations immediately.

In response to questioning, Mr. Copeland confirmed that the last tenant was removed from the property on July 6, 2006. From the date the property became vacant to the September 27th 2006 meeting date, or the September 28, 2006 expected start date on renovations, the time span was 2.5 months. Board Member Trojak questioned whether Mr. Copeland found that to be enough time to do renovations and re-tenanting of the property. Mr. Copeland expressed that he believed to be able to accomplish some renovations and begin to re-tenant the buildings, but certainly not to 100% occupied buildings. He confirmed that no buildings have been demolished and that they have in fact begun renovation on the units, such as light demo, cabinet remodeling and carpet replacement.

Chairperson Kaye requested clarification from applicant's counsel that they were alleging bias by the City in connection to this matter. Mr. Bogorad strongly suggested that the City has a goal to force the owner into pursuing the townhouse development project. The decision that was issued in this matter seems to be the method that was selected to accomplish that goal and to force the owner into something that is not required by law. Mr. Bogorad stated that the City's interpretation of the ordinance was guided by that goal, and therefore should not be entitled to any deference.

Chairperson Kaye swore in witness Greg Ossont, Director of Planning and Code Administration for the City of Gaithersburg, speaking on behalf of the City. Mr. Ossont testified in reference to his February 22, 2007 letter to the petitioners, that he did in fact give RST a chance to submit an application for a site plan approval without all of the normally required material, in order to get the process started. They were instructed to submit the information they felt appropriate and to leave out any information that they felt was irrelevant. If the City found that that information was in fact needed, it would be requested; otherwise it would be considered a complete package. In response to questioning by the City Attorney, Mr. Ossont confirmed that under Section 24-174, he does in fact have the authority to alter submission requirements. The applicant (RST) however, did not choose to submit an application for site plan approval, but rather filed for an Administrative Appeal.

Mr. Ossont discussed the parking requirement changes that had been made since the erection, and original 1970 site plan of the property. In 1980, ordinance 0-13-80 altered the parking regulations to require more parking spaces. Under the new ordinance, the site would require 405 parking spaces, a difference of 30 spaces.

Mr. Ossont testified that the 1980 parking ordinance changes caused the once conforming property to become a legal nonconforming property. It remained nonconforming but was considered legal because the property was already built, and was not being altered. In a sense it was grandfathered into the current ordinance. Mr. Ossont confirmed that the City did not waive its ability or right to request compliance to the 1980 ordinance if changes to the property such as parking, setbacks, lot coverage or the like, were requested at a later date such as now.

Mr. Ossont confirmed that his job duties do involve the daily reading and interpretation of the ordinance; after reading aloud the definition of nonconforming from Section 24-1, Mr. Ossont concluded that the property was a nonconforming use. Mr. Ossont testified that the reoccupation of

the apartments would be a subsequent use of the land. He also said that parking is considered a part of the use of the land and that under Section 24-1, parking may be considered an accessory use. Mr. Ossont declared that if parking is considered an accessory use, it therefore is considered a subsequent use.

Pursuant to Section 24-17(c) that states: *if any nonconforming use of land ceases for any reason for a period of more than ninety days, any subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which such land is located*; the discontinuance of the rental apartments for over 90 days requires RST to submit for site plan approval.

As of the 91st day past July 6, 2006, the start of vacancy, the property had become an illegal non-conforming use. Mr. Ossont stated that the property may be brought up to code by either providing an amended site plan or new site plan to include the necessary parking spaces, a parking waiver obtained through the planning commission, or a combination of the two (waiver and site plan option).

There are three exceptions listed under the 2nd paragraph of Section 24-168 that would allow for a site plan not to be submitted. The second exception is in the case of a substantially similar proposed use to the prior use of the land. A proposed use shall not be deemed substantially similar to a prior use where this chapter imposes more stringent requirements for the proposed new use as to off-street parking, yards, height limits or minimum lot size. The City does not and can not deem the new use substantially similar to the prior because the current off street parking requirements are more stringent than they were initially for the prior use. This exception therefore does not apply.

Mr. Ossont testified that on November 6, 2006 the City received the application from RST for a rental housing license. The City verified that it was in fact still boarded up with no power and therefore held the application. Mr. Ossont stated that while he was aware of the requirements in section 18AA, interior demolition was underway, there was no power and the property was still boarded up. In response to why there was no temporary license issued, Mr. Ossont felt that it was a common sense decision not to issue a temporary rental housing license to a property that was obviously not ready to be occupied. Mr. Ossont was also awaiting a resolution from the February 22, 2007 Board of Appeals meeting in reference to a previous appeal. A temporary license regardless, would not have given permission to occupy the space.

In response to further questioning, Mr. Ossont stated that the City would not be able to issue use and occupancy permits to unfinished buildings. This particular project had already begun some interior demolition before being boarded up; it is unknown the extent of the demolition and whether or not building permits would have been needed. Multifamily apartments are required to be sprinklered as well; this also may require a new use and occupancy permit. Mr. Ossont explained that the details related to fire systems in multi-family homes do not allow the ground floors to be complete until all floors are complete, and therefore the City would not be able to issue use and occupancies until the entire building was finished. Upon fire marshal review of sprinkler plans, the process may be considered structural, in which case, may not require updated use and occupancy permits.

After the electrical work was done in January of 2007, Mr. Ossont testified that he did postpone the requested inspections in order to speak with the contractors directly. He wished to learn the extent of the work having been performed due to the pending appeals regarding the property. This only

took a matter of days, and the City is under no time requirement regarding permit inspections. The initial inspection was called in, and requested on January 29th 2007; the inspection actually took place and the permit finaled on February 7th 2007, approximately one week later.

Mr. Bogorad requested that Mr. Ossont read Section 24-218(a). Mr. Bogorad questioned Mr. Ossont as to whether he understood this section to apply at the time of erection, enlargement or structural modification of a building, and that that is in fact what the statute says. Mr. Ossont agreed that it did in fact say that.

Mr. Ossont could not say with certainty that there were no plans to erect any new buildings, enlarge or structurally modify any current buildings on the property because he had not yet received a site plan. Mr. Ossont testified that he was not aware of any plans to do so, but that spending $30,000 on each unit as Mr. Copeland testified previously, may involve structural modifications. The required sprinkler systems for multifamily apartments may fall under structural modifications, but without any plans, it is undetermined.

Mr. Bogorad questioned the need to acquire new use and occupancy permits if the buildings had them previously. Mr. Ossont was not aware of any plans to erect, enlarge or modify the buildings on the property in which would require a new use and occupancy permit. He also could not say whether the building's use and occupancy permits were still valid, but stated that they had not at this point, been revoked. Mr. Ossont testified that light interior demolition typically would not require new use and occupancy permits, but that the property would be required to be sprinklered and depending on whether there were structural changes, may need a new use and occupancy permit. Commercial Interior fit out permits to change HVAC units, or appliances, or to add sprinkler systems, would include a request for occupancy.

Mr. Ossont read the definition of nonconforming use as well as use, from the Gaithersburg City Code. Mr. Bogorad inquired whether the principle purpose for this property was in fact multifamily housing. Mr. Ossont confirmed that multifamily housing is in fact the purpose or the use of the property. Mr. Ossont also confirmed that multifamily use is a permitted use, or permitted purpose, in that zone. It was decided amongst Mr. Ossont and Mr. Bogorad to, for future reference, use the term “use” while understanding that it can also be termed “principal purpose”.

Mr. Bogorad stated that if no use and occupancy permits were required, then no provisions of the first section of 24-168 would require a site plan. He also stated that all 3 exceptions in the following paragraph could be made regarding the property. Mr. Ossont agreed, except for the fact that, a proposed use shall not be deemed substantially similar to a prior use when this chapter imposes more stringent requirements.

Mr. Bogorad requested to see the language that supports Mr. Ossont's disregard for section 24-218(a). Mr. Ossont referred to section 24-219(4) which states that "*Whenever in this code any particular zone contains requirements for parking areas, or there are other provisions which vary from the provisions of this article, the more restrictive requirements shall apply*." Mr. Ossont stated that the new parking requirements are more stringent and restrictive than the previous, and it is with this section that he discounts Section 24-218(a).

In response to further questioning, Mr. Ossont stated that his February 22nd letter was the only

writing from the City in regards to the rental housing license. The letter did not notify the owner of the property of any current violations, but did address the issue that it had no power and that it was boarded up. Mr. Ossont stated that Chapter 17aa of the property maintenance article requires that properties have power. Mr. Ossont did not give the owner a time frame in which to restore the power. Mr. Ossont was aware of the code sections in response to rental housing license applications, but did not follow them, and was aware of it.

Mr. Ossont did request that the property be boarded up due to safety hazards and property vandalism while the property was vacant. In order for the building to act as a rental housing property it would then create problems to have the property boarded up; it would prohibit light and ventilation requirements that are required under the IRC and property maintenance code.

Mr. Ossont stated that a multifamily use without parking would be highly unusual, making parking an essential part of a multifamily use. Ms. Borten asked Mr. Ossont if it was his understanding, and the City's view that, regardless of section 24-214(a) in regards to "at the time of erection, enlargement or structural modification", as soon as the property was vacant for more than ninety (90) days, according to Section 24-17(c) it became nonconforming. It was at this time, that the subsequent use started over, and therefore those parking requirements apply as if it were being erected at that time. It is to be considered a new use, new building and therefore treated the same as if it were first being erected.

THE BOARD OF APPEALS TOOK A SHORT RECESS AT 9:20 P.M.
IT RECONVENED AT 9:30 P.M.

Mr. Ossont did not know the exact date that the utilities had been turned off, but that it was after July 6, 2006. Mr. Ossont is unaware of any code preventing the issuance of a rental housing license to a property without utilities, but stated that there are property maintenance standards and rental housing codes that do require violations to be cited and a final license will be issued once violations are corrected.

Board Member Knoebel referred to the Administrative Review from November 2006 and questioned whether the City had the ability to issue a rental housing license while such Administrative Review was pending regarding the same property. Mr. Ossont confirmed that while it was one of his hesitations, he was unsure whether it was something that the City should, or could do with so many unknown variables.

Board Member Knoebel questioned Mr. Ossont regarding Section 24-188 which states: *The filing of a petition for administrative review shall stay all proceedings in furtherance of the action appealed from unless such stay would cause immediate peril to life or property.* Mr. Ossont stated that he did not consider the rental housing license application a proceeding in relations to the November 2006 appeal; the appeal was related to the necessity of a site plan and not related to the rental housing license.

In response to questions from Board Member Trojak, Mr. Ossont stated that the ninety (90) vacancy stipulation begins when the building is vacant, in this case July 7, 2006. As far as the requirement

that a rental housing license renewal, the license was set to expire in January; therefore a renewal would have been needed 90 day prior, in October.

Board Member Rieg inquired whether the property was transit accessible. Mr. Ossont replied that there were buses within walking distances.

Board Member Friend wanted to be sure he understood Mr. Ossont's reading of the statute. Mr. Ossont clarified his position again regarding Section 24-168. The City has not received any plans regarding the erection, alteration or modification of any buildings on the property. Mr. Ossont stated that it is the City's assertion that to modify a nonconforming use, such as the parking requirements, it is required to establish a new use. The establishment of a new use requires the need for a new or amended site plan.

Mr. Ossont could not recall any similar situations in the City where there had been a legally nonconforming use that had been discontinued for more than ninety (90) days, the City does consider this to be a unique circumstance.

Mr. Ossont stated that he does not differentiate between the terms principle purpose and principle use. Mr. Chen questioned whether the only difference between what the applicant is proposing that the property have, and that of which the City is requiring the property have, is a total of 30 parking spaces. Mr. Ossont again stated that he did not feel the new use to be substantially similar because there is not enough parking.

In response to questioning from Mr. Chen, Mr. Ossont stated that he believed the property to have no approved site plan currently. The property use was discontinued after ninety (90) days of vacancy. A new use needs to be established. Mr. Ossont read Section 24-173(a), assuming the townhouse project contemplated new buildings and structures, the new site plan was never recorded and therefore never validated.

Mr. Ossont stated that he believed the rental housing license for the property had been transferred from the old owners to the current owners in 2005. The rental housing license expired on January 31, 2007 and a renewal application was submitted November 6, 2006. According to Section 18aa-6 applicants are required to file a renewal application at least ninety (90) days prior to expiration. The applicant submitted a renewal application eighty-four (84) days prior to expiration; less than the required ninety (90) days prior to expiration. Mr. Ossont stated that any violations under section 18aa are punishable by municipal infractions. He also stated that it's not typically the way the City does business, and would more than likely accept and process the application as usual, had there not been questions regarding site plan requirements.

After multiple repeated discussions of Section 24-218, Chairperson Kaye ended with the conclusion that there were not two (2) valid site plans for the property, but in fact no valid site plans for the property. The original has been discontinued, and the new was never fully implemented.

Chairperson Kaye swore in Mr. Jeffrey Horlic, 8 Duvall Lane. *Mr. Jeffrey Horlic, Duvall Lane.*, stated that he has worked in Gaithersburg for 40 years, and lived in Gaithersburg for 17 years. He wished for the board to do what is best for the City and his local neighborhood. Mr. Horlic understood the reasons behind not constructing the townhouse units, but was disappointed that it

was not going to be developed.

In closing, Mr. Harris stated that the basis of the appeal was that the property was and is in fact a conforming use, in which case would not depend on a period of vacancy. The property as a conforming use does also not need to alter its parking lot. The petitioners believe that there are two (2) valid site plans for the property; perhaps only one (1) may be established, but at this point, the townhouse site plan has not been established, leaving the first site plan to be resumed.

Ms. Borten laid out the City's view one last time. She stated again, that there should be deference given to those who are the experts regarding the code and the statutes. She explained that Mr. Ossont never said that multifamily use was not permitted in the R20 zone, but that it had become a nonconforming use due to the parking. The fact that thirty (30) more parking spaces required is more than previously required and therefore more stringent leaving the substantially similar exception not applicable.

> Motion was made by Board Member Knoebel, seconded by Board Member Rieg, that the Board of Appeals conduct a closed executive session as of 10:55 p.m., April 12, 2007, and the meeting be held pursuant to section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland, for the purpose of consultation with legal counsel.
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> VOTE: 5:0

Chairman Kaye noted that due to the late hour, the Board would not deliberate on the appeal until the May 10, 2007 meeting.

THE BOARD OF APPEALS TOOK A RECESS AT 10:55 P.M.
TO CONDUCT A CLOSED EXECUTIVE SESSION.
IT RECONVENED AT 11:35 P.M.

Upon reconvening, Chairperson Kaye read the following statement into the record:

> A closed executive meeting was held by the Board of Appeals at 10:55 p.m. in the Gallery of City Hall for the purpose of consulting with legal counsel William Chen. The closed session was held pursuant to Section 10-508(a)(7) of the State Government Article of the Annotated Code of Maryland. No vote was taken during the session. All board members were present. Other than receiving the advice of Mr. Chen, no action was taken by the Board in the closed executive session, and it adjourned at 11:32 p.m. The minutes of that closed session are maintained separately under seal.

IV. ADJOURNMENT

There being no more business to come before this meeting of the Board of Appeals, the meeting was adjourned at 11:35 p.m.

Respectfully submitted,

Ashley B. Geisbert